

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEWIS AARON NIXON, JR.,

Petitioner,

vs.

Case No. 00-CV-73446
HON. GEORGE CARAM STEEH

FRANK ELO,

Respondent.

_____/

ORDER DENYING PETITIONER'S MOTIONS
SEEKING TRANSCRIPTS [DOCS. 73 AND 74]

Petitioner Lewis Aaron Nixon, Jr. filed a pleading entitled "Petition for Denial of 28 § 2254 Petitions" on April 18, 2011. Petitioner's recently filed "Motion for Guidance" brought the fact that petitioner's request had not been resolved to the attention of this court. Petitioner seeks a copy of a transcript from a September 3, 1993 hearing before the Wayne County Circuit Court, allegedly regarding substitution of counsel, and a transcription of said transcript. Petitioner seeks the transcript to dispute the grounds on which the United States Court of Appeals for the Sixth Circuit and the United States Supreme Court dismissed his appeals.

Petitioner previously filed a § 2254 petition, and on February 12, 2002 this court found his claims were procedurally barred. One issue raised by petitioner was whether the trial court erred in failing to adequately advise him of the danger of self-representation. In his trial, petitioner had stand-by counsel, who presented the opening statement, argued numerous motions to the trial court, questioned several witnesses, and counseled petitioner

throughout the trial. According to petitioner, on September 3, 1993, the circuit court held a hearing and granted petitioner's request to dismiss his counsel. This is the transcript which petitioner now seeks by way of his pending petition.

Petitioner has a history of filing motions seeking copies of various pleadings and transcripts. On October 22, 2002, the Court of Appeals denied a motion for the production of a trial transcript, noting that the transcript was already part of the certified record before that court. On April 29, 2010, this court denied petitioner's motion to proceed *in forma pauperis* in which he sought to have the document retrieval fee waived in order to obtain copies of his petition for writ of habeas corpus for purposes of pursuing a second appeal in the United States Circuit Court for the Sixth Circuit.

Petitioner's present request comes years too late. The issue of petitioner's constitutional right with regard to self-representation was raised and addressed in the habeas petition filed before this court, as well as in the appeals filed from that decision. The trial transcripts were part of the certified record before the Court of Appeals. To the extent that the September 3, 1993 hearing transcript was not included in the record, it is moot at this point, over eight years since the Supreme Court denied petitioner's request for certiorari. Now, therefore,

IT IS HEREBY ORDERED that petitioner's request for transcript is DENIED.

So ordered.

Dated: February 27, 2012

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on February 27, 2012, by electronic and/or ordinary mail and also to Lewis Aaron Nixon, Jr. At Cotton Correctional Facility, 3510 N. Elm Street, Jackson, MI 49201

s/Josephine Chaffee
Deputy Clerk